

# Memorandum

Date : September 14, 2000

Telephone: (916) 653-1614

To : William J. Keese, Chairman and Presiding Member      File: Sep 17 Status Report.Doc  
Robert A. Laurie, Commissioner and Associate Member

From : California Energy Commission - Richard K. Buell  
1516 Ninth Street      Siting Project Manager  
Sacramento, CA 95814-5512

Subject : **THREE MOUNTAIN POWER PROJECT ~ Staff's September 17, 2000 Status Report**

The Three Mountain Power Project Committee's July 10, 2000 order **Notice of Revised Schedule** directed parties to file a status report on the 17<sup>th</sup> of each month through conclusion of the evidentiary hearings. The order also directed parties receiving information that affects the scheduling to immediately file and serve a supplemental status report. This is staff's September 17, 2000 status report in response to the order.

Three key events occurred since our last status report: 1) on August 21, 2000, the applicant filed its "Detailed Mitigation Plan and Analysis of Impact Assessments In Resource Areas Affected by the Mitigation Plan" (Detailed Mitigation Plan); 2) on August 25, 2000, the U.S. Environmental Project Agency (EPA) forwarded the Biological Assessment (BA) to the U.S. Fish and Wildlife Service (USFWS);<sup>1</sup> 3) on September 11, 2000, staff conducted a public workshop to discuss the BA, the Detailed Mitigation Plan, and project schedule.

For the most part, staff found the applicant's Detailed Mitigation Plan and BA to be complete. The notable exceptions include the following<sup>2</sup>:

1. The Detailed Mitigation Plan lacks a concise description of how the applicant intends to use the water supplies (pumped ground water, reclaimed water, and water obtained from Burney Mountain Power Plant located adjacent to the proposed project) to operate the Three Mountain Power Project under various circumstances. It is also staff's understanding that this information is necessary for the USFWS to consider the BA complete. The applicant will provide this information by September 18, 2000.
2. The Detailed Mitigation Plan is missing a conceptual description of the wastewater treatment facilities that are needed to supply the reclaimed water to the Three Mountain Power Project. Staff intends to obtain the necessary "conceptual design" information directly from the Burney Water District.
3. Detailed Mitigation Plan is also lacking details regarding the proposed biological mitigation measures. Staff will work with USFWS and the applicant to develop a final Biological Resources Mitigation, Implementation and Monitoring Plan and a more detailed description of implementing the Shasta crayfish mitigation study. This study is key to mitigating biological resource impacts and to satisfying USFWS concerns. Staff

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<sup>1</sup> This event starts a thirty-day completeness review of the BA by the USFWS. Once the USFWS finds the BA Complete, the USFWS would issue its Biological Opinion in 135 days.

<sup>2</sup> The applicant provided oral responses to many of staff's and other parties questions during the workshops.

intends to work with the applicant's consultants at the end of September and early October to complete this task.

The schedule for preparation of the Final Determination of Compliance (FDOC) was also discussed during the workshop. Mr. Michael Kussow, P.E., representing the Shasta County Air Quality Management District (the District) indicated that the District could provide the FDOC within two to three weeks of the workshop. Mr. Kussow indicated the FDOC would include preliminary Prevention of Significant Deterioration (PSD) conditions, and that final PSD permit would not be issued by the District until the Biological Opinion was issued by the USFWS (e.g., January 31, 2001). This approach is similar to that used by the Bay Area Air Quality Management District (BAAQMD) in its FDOC for the Metcalf Project (99-AFC-3). The U.S. Environmental Protection Agency (EPA) found BAAQMD's approach for the Metcalf Project acceptable. Staff believes this approach will expedite the certification and provide the Committee with sufficient information to prepare a proposed decision for the Three Mountain Power Project.

## SCHEDULE

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The schedule for preparation of the Final Staff Assessment (FSA) was also discussed at the workshop. However, the parties could not agree on a schedule proposal. Staff agrees that expeditious siting of new environmentally superior and efficient power plants in California is desirable, and we commend the applicant and California Unions for Reliable Energy (CURE) developing a comprehensive mitigation that addresses the more controversial issues associated with the project. Staff believes that the following topic areas will need additional analysis. Other topic areas will not need to be reopened.

Topic Areas for Which the Evidentiary Record will Need to be Reopened	Topic Areas not yet heard, that will Require New or Additional Analysis
Project Description	Alternatives
Land Use	Air Quality
Visual Resources	Public Health
Waste Management	Biological Resources
Power Plant Efficiency	Soils & Water Resources
	Noise

Staff notes that the applicant's August 21, 2000 Detailed Mitigation Plan represents a major change in the project description relative to the soil and water resources topic area. Such major changes can require substantive time (two to three months in some cases) to assess. However, Staff believes that the applicant's Detailed Mitigation Plan is substantially complete and eliminated a number of issues that would have otherwise required substantial time to analyze.

Assuming no other staff resource conflicts, staff estimates it would require four weeks of effort from September 18, 2000, to complete its soil and water resources FSA.<sup>3</sup> **However, staff resource conflicts do exist.** These conflicts not only affect soils and water resources, but biological resources, visual resources and alternatives. In order to produce an FSA for the Three Mountain Power Project four weeks from September 18, 2000, staff would need to delay completion of reports for several projects.<sup>4</sup> Although staff believes that the Three Mountain Power Project as now amended has a lesser potential to result in environmental impacts as compared to the original proposal, there is no compelling reason to propose accelerating the certification of the project over other projects.

Staff's proposed schedule shows the publication of the FSA on November 13, 2000.<sup>5</sup> This schedule also shows a final decision in March of 2001, which we understand to be the applicant's objective. However, this schedule includes two events, which, if eliminated could, accelerate the certification of the Three Mountain Power Project. Staff has added to the schedule, at the applicant's suggestion, the submittal (via email) of draft conditions of certification for comment. Staff and applicant agree that this approach would be more expedient than another workshop on the FSA. It would also potentially reduce hearing time. Staff notes, however, that elimination of this approach could save seven 7 days in the schedule for preparing the FSA, and staff could publish its FSA on November 6, 2000.

Another item that could be eliminated to shorten the schedule is the preparation of rebuttal testimony. Staff has included this event since it was included in the Committee's earlier schedules. Because the majority of issues have been resolved between most parties, the preparation of rebuttal testimony is not as critical as previously indicated. Elimination of this event could allow the Committee to schedule hearings approximately 2 weeks sooner than shown in staff proposed schedule (subsequent events could also be advanced by two weeks).

These process changes could result in advancing the final decision date shown in staff's schedule by three weeks. Staff recommends the Committee consider eliminating these events, but notes this may also delay the final decision, if substantial controversy still exists on the project or on staff proposed conditions of certification.

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<sup>3</sup> This includes three weeks for the technical lead to prepare a draft FSA, and one week for management review and reproduction. Some topic areas may take less time to prepare. However, because the Committee's July 10 2000 "**Notice Of Revised Schedule**" order identified an intent not to further segment the record, staff will only discuss here the topic area with the longest lead-time for completion.

<sup>4</sup> Staff is currently scheduled to publish six PSAs, FSAs or Draft Initial Studies in late September and October. Significant amount of staff overtime will be required to meet the current schedules without adding the Three Mountain Power Project FSA. Hiring consultants at this time could actually add to the time necessary to analyze the projects, since it would require additional time for the consultant to study information submitted over the last year, and then prepare the FSA. The reason these staff resource conflicts exist now, in part, is because staff assignments to other projects were made assuming the staff work on Three Mountain Power project would have been completed by now.

<sup>5</sup> At the workshop on September 11, 2000, staff suggested a publication date of October 27, 2000. Since the workshop, the Commission has received an amendment for the Sunrise Project (98-AFC-4) to construct a peaking project. Staff expects to receive one or more additional proposals for such peaking projects. Consequently, staff has revised its proposed date for publishing the FSA.

**Proposed Schedule For Three Mountain Power Project**

<b>DATE</b>	<b>EVENT</b>
17-Jul-00	Applicant files Biological Assessment with U.S. EPA
22-Aug-00	Applicant files Detailed Mitigation Plan
<b>11-Sep-00</b>	<b>Workshop on Detailed Mitigation Plan</b>
27-Sep-00	APCD reissues Final Determination of Compliance
25-Oct-00	Staff submits, via emails, Draft Conditions of Certification (optional)
1-Nov-00	Parties provide comments on Draft Conditions (optional)
13-Nov-00	File FSA Part 2 -Air Quality, Alternatives, Soil & Water, Biological Resources and other areas affected by the mitigation plan
21-Nov-00	Applicant submits signed options or contracts for purchase emission reduction credits
28-Nov-00	Parties File Testimony on Air Quality, Alternatives, Soil & Water, Biological Resources and other areas affected by the mitigation plan
1-Dec-00	Parties file rebuttal testimony (optional)
<b>14-Dec-00</b>	<b>Part 2 Hearing~Day 1</b>
<b>15-Dec-00</b>	<b>Part 2 Hearing~Day 2</b>
<b>22-Dec-00</b>	<b>Part 2 Hearing~Day 3</b>
29-Jan-01	Committee Issues Draft Presiding Members Proposed Decision (PMPD)
31-Jan-01	USFWS issues Biological Opinion (9/18/00 plus 135 days) and District issues Final PSD conditions
<b>16-Feb-01</b>	<b>Committee conducts hearing on PMPD</b>
26-Feb-01	End of PMPD comment period for agencies and others
26-Feb-01	File staff comments on Draft PMPD
12-Mar-01	Committee Issues Revised PMPD
21-Mar-01	Commission Hearing on Revised PMPD
21-Mar-01	Adopt Decision

RKB:rkb

cc: Three Mountain POS List  
Mr. Michael Kussow, P.E.  
CVRWQCB  
USFWS  
CDFG